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No. 03-1373

Supreme Court, U.S.
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In The

Supreme Court of the United States

CLEMENT A. ST. HILAIRE,

Petitioner,

v.

GRACE A. ST. HILAIRE,

Respondent.

On Petition For Writ Of Certiorari To The Supreme Judicial Court Of The State Of Maine

BRIEF OF RESPONDENT IN OPPOSITION TO PETITION FOR CERTIORARI

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QUESTIONS PRESENTED

Was there any federal question decided in the courts below?

Does this court have statutory jurisdiction under 28 U.S.C. § 1257?

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I.

PROCEDURAL HISTORY OF CASE

The parties (Clement St. Hilaire, "Husband" and Grace St. Hilaire, "Wife") were divorced in December of 1983, and the parties each waived appeal from the divorce decree, which required the Husband to sell the marital homestead within two years. By 1986, Wife filed a motion for contempt, which resulted in an order that she (rather than Husband) sell the house. Husband appealed that order to the Maine Supreme Judicial Court, which affirmed the decision below.[1] In a subsequent contempt proceeding the trial court voided a fraudulent conveyance by Husband and found him in contempt for his efforts to interfere with Wife's efforts to sell the house. Husband's appeal from this order to the Supreme Judicial Court was subsequently denied.[2] Husband's appeal to the Supreme Judicial Court from the trial court's next finding of contempt (by then *more than twelve years* after the original divorce decree) was similarly denied, this time with a finding that:

> By any objective standard this appeal is utterly frivolous. The conclusion is inescapable that St. Hilaire has prosecuted this third appeal for the purpose of putting off the time when he will have to pay the sum of $5,558 the Superior Court on last May 10 found he then owed on the marital

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[1] *St. Hilaire v. St. Hilaire*, 526 A.2d 28 (Me. 1987).

[2] *St. Hilaire v. St. Hilaire*, 543 A.2d 822 (Me. 1988).

> real estate and the time when the 1983 divorce judgment can be finally implemented.[3]

The Court imposed sanctions upon Husband.[4] In June of 2003, by then almost twenty years after the original divorce decree, the trial court appointed a receiver empowered and instructed to sell the property, and Husband once again appealed to the Supreme Judicial Court, in disposition of which appeal, in addition to its affirmance, the Court opined:

> Clement has previously been found in contempt, ordered to pay costs and attorney fees for frivolous appeals, and was even ordered to jail in 1992 for failure to make certain payments.
>
> We find no purpose in this appeal other than to cause further delay. Accordingly, we impose sanctions of treble costs and reasonable attorney fees against Clement. *See St. Hilaire,* 567 A.2d at 1349. In order to prevent further abuse of court processes, we also enjoin Clement from filing additional motions or appeals of Superior Court orders in this case unless a licensed attorney signs the pleading, subject to M.R. Civ. P. 11, or a Superior Court Justice approves the filing of such motion or appeal after making a preliminary determination that the proposed filing is not frivolous. *See, e.g., Spickler v. Dube*, 644 A.2d 465, 468-69 (Me. 1994) (holding that a detailed showing of a pattern of abusive and

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[3] *St. Hilaire v. St. Hilaire*, 567 A.2d 1349 (Me. 1990).

[4] *Supra.*

> frivolous litigation may support enjoining a party from filing frivolous lawsuits).[5]

Husband now seeks review upon *certiorari*.

II.

MATERIAL MIS-STATEMENTS OF FACT IN PETITION

The reproduction of the Decision below in the Appendix[6] is materially inaccurate. The reproduction in the Appendix of paragraph 2 of the Opinion includes the following sentence: "Her efforts to do the same were *not* met with Clement's contemptuous interference . . . " [emphasis added] In fact, the opinion of the Supreme Judicial Court, reported at 2004 ME 13, states: "Her efforts to do the same were met with Clement's contemptuous interference . . . " If this Court had jurisdiction upon *certiorari*, which it categorically does not, *infra*, this mis-statement would be highly material.

III.

ARGUMENT

A. There is no statutory basis for jurisdiction.

The statutory basis for this Court's jurisdiction to review a decision of a state's highest court upon a writ of *certiorari* is found in 28 U.S.C. § 1257, which vests jurisdiction where

> . . . the validity of a statute of any State is drawn into question on the ground that it is

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[5] *St. Hilaire v. St. Hilaire*, 2004 ME 13, 841 A.2d 783 (Me. 2004).

[6] Appendix, p. A-31.

> repugnant to the Constitution, treaties, or laws of the United States or where any right, title or immunity is specially set up or claimed under the Constitution, or treaties or statutes of, or any commission held or authority exercised under, the United States

There is nothing in the Petition that avers a statutory basis for such jurisdiction.

B. No issue cognizable upon review on certiorari was raised or decided below.

A thorough reading of the Appendix fails to disclose that any federal issue was raised, much less decided in the Maine state courts. For an example of this court's dismissal of a writ of certiorari where it appeared the writ had been improvidently granted for want of a substantial Federal question, see *Benz v. New York State Thruway*, 369 U.S. 147, 82 S.Ct. 674, __ L.Ed.2d 634 (1962).

C. The decision below is supported by independent and adequate state grounds.

The decision below is grounded wholly upon an exercise of the State court's discretion in fashioning a remedy for Husband's contumacious – one might easily say obstreperous – conduct throughout the *twenty years* elapsed since the entry of the original order for sale of the former marital residence. The juridical source of the courts' exercise of discretion is clearly found in state law, *Wood v. Wood,* 602 A.2d 672 (Me. 1992). Although there are instances where reasonable minds could differ as to whether the asserted state grounds were independent of a determination of federal

rights[7], this is indisputably not such a case. Where the decision is based wholly upon an independent and adequate state ground, this court will not exercise its discretionary jurisdiction on a petition for a writ of *certiorari*. *Fargo v. Michigan,* 121 U.S. 230 (1887); *Detroit City Railway Company v. Guthard*, 114 U.S. 133, 134 5 S.Ct. 396, 28 L.Ed.2d 952 (1885); *Murdoch v. City of Memphis*, 20 Wall 590, 87 U.S. 590, 611, 641 (mem), 22 L.Ed.2d 424 (1874).

IV.

CONCLUSION

This Husband has made every effort for twenty years to obstruct the sale of the former marital residence. This was recognized in repeated decisions of the Maine Superior and Supreme Judicial Courts, which having twice sanctioned Husband for taking frivolous appeals, resorted to the extraordinary remedy of enjoining further litigation absent certification by counsel or court sanction. This Petition is but one more effort to continue to delay and deter Wife from enjoying the remaining rights she was accorded under the decree of divorce. The Petition should be denied.

Dated at Portland, Maine, this 8th day of April, 2004.

Respectfully submitted,

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[7] *Black v. Cutter Laboratories*, 351 U.S. 292 (1956).